

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH CENTRAL DIVISION**

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<b>EPIC TECHNOLOGY LLC</b>	<b>PLAINTIFFS REPLY TO THE COUNTERCLAIM OF SHOPS AVVY INC.</b>
<i>Plaintiff,</i>	Magistrate Judge Samuel Alba
v.	Civil Case No. 2:12-cv-00249
<b>SHOPS AVVY INC.</b>	
<i>Defendant.</i>	

Plaintiff EPIC TECHNOLOGY LLC (“Epic”) replies to correspondingly numbered paragraphs of SHOPS AVVY INC.’s (“Shop”) Counterclaim as follows:

**ANSWER TO COUNTERCLAIMS ALLEGATIONS**

31. Epic lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same.
32. Admit that Epic is a Utah Company at that address.
33. Admit.
34. Admit.
35. Admit.
36. Epic lacks knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the same.

37. Deny.
38. Epic incorporates herein the responses to paragraphs 31 through 37.
39. Admit.
40. Epic admits an actual controversy exists between Shop and Epic with respect to whether Shop has infringed the '401 patent. Epic denies the remaining allegations in paragraph 40.
41. The allegations set forth in paragraph 41 contain conclusions of law to which no response is required. To the extent which a response is required, Epic denies the allegations.
42. No response is required to this allegation.
43. Any allegations not specifically admitted herein are hereby denied.

**FIRST AFFIRMATIVE DEFENSE**

Shop's Counterclaim fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Shop's Counterclaim is barred, in whole or in part, by the equitable defenses of estoppel, waiver, laches and/or unclean hands.

**THIRD AFFIRMATIVE DEFENSE**

Shop has failed to make reasonable efforts to mitigate its damages, if any.

**PRAYER FOR RELIEF**

- A. Epic denies that Shop is entitled to any of the relief sought in its prayer for relief.
- B. WHEREFORE, Plaintiff prays that Shop's counterclaim be dismissed with prejudice, the Plaintiff be awarded its attorney fees, costs, and expenses in this action, and that the Court grant Plaintiff such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

In accordance with Federal Rules of Civil Procedure 38 and 39, Epic asserts its rights under the Seventh Amendment to the United States Constitution and demands a trial by jury on all issues triable by a jury.

DATED: May 31, 2012

/s/ Trent Baker  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 31st day of May, 2012, I caused a true and correct copy of the foregoing **PLAINTIFFS REPLY TO THECOUNTERCLAIM OF SHOPS AVVY INC.** to be filed with the Clerk of the Court using the CM/ECF system, which will automatically send email notification of such filing to all counsel who have entered an appearance in this action.

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